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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,333	07/31/2003	Vanish Talwar	200311035-2	3580

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HEWLETT PACKARD COMPANY  
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INTELLECTUAL PROPERTY ADMINISTRATION  
FORT COLLINS, CO 80527-2400

EXAMINER
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SWEARINGEN, JEFFREY R

ART UNIT	PAPER NUMBER
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2445

NOTIFICATION DATE	DELIVERY MODE
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12/11/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JERRY.SHORMA@HP.COM  
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<b>Office Action Summary</b>	<b>Application No.</b> 10/632,333	<b>Applicant(s)</b> TALWAR ET AL.	
	<b>Examiner</b> Jeffrey R. Swearingen	<b>Art Unit</b> 2445	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 15-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 15-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

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## DETAILED ACTION

### *Response to Arguments*

1. Based on Applicant's statements that the storage function in claims 15-18 and 20 that the contract repository configured to store the service level agreement requires physical memory and hardware, the rejection under 35 U.S.C. 101 for software *per se* is withdrawn.
2. Applicant's arguments with respect to claims 1-12 and 15-18 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-12 and 15-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Clarke, Jr. et al. (US 2004/0221038).
5. In regard to claim 1, 8, Clarke disclosed:

*receiving an end user request for an interactive session with the end user; [0041]*

*identifying any application programs needed by the end user to be launched in said interactive session; [0041]*

*determining resource requirements for said interactive session including processor, network bandwidth, executables and files requirements; [0043-0044]; [0049]*

*generating a contract for the interactive session specifying resource allocations and authorizations, wherein the contract includes a service level agreement with the end user; and [0012]*

*allocating resources for the interactive session in accordance with the service level agreement.*

[0024], [0041], [0067]

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6. In regard to claim 2, 9, Clarke disclosed:

*the step of identifying application programs to be launched in the interactive session includes consulting a user directory to identify application programs which the end user is authorized to use.*

available web services are discussed in [0044]. Policies preventing certain programs from being run on certain computers are discussed in [0009]. An administrator controlling computer accounts where a user accesses programs is discussed in [0036]. When the administrator controlled computer accounts are discussed in conjunction with a policy which prevents programs from being executed and a list of available web services, it is clear that Clarke implements this in a method where the administrator creates a user account which states what the user may and may not access based on that the user has paid for, when the use of corporate finance data and accounts for specific customers which is used as part of application prioritization statements for customers as in [0041].

7. In regard to claim 3, 10, Clarke disclosed:

*the step of determining resource requirements includes consulting one or more application profile files which provide information concerning the resource requirements for individual applications.* [0039]; [0044]

8. In regard to claim 4, 11, Clarke disclosed:

*the step of determining resource requirements includes identifying a user class to which the end user belongs and consulting one or more user class authorization policy files to determine resource allocation policies for the end user's user class.* [0041] and [0036] discuss control of customer computer accounts and access and prioritization of applications based on those accounts.

9. In regard to claim 5, Clarke disclosed:

*the step of generating said contract includes generating an authorization policy.* [0010]

10. In regard to claim 6, Clarke disclosed:

*monitoring the interactive session to ensure compliance with terms of the contract.* [0049]

11. In regard to claim 7, 12, Clarke disclosed:

*the step of allocating resources for the interactive session is performed by a grid scheduler which receives the end user request and the contract.* [0056]; [0009]; [0043]

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12. In regard to claim 15, Clarke disclosed:

*a distributed resource management node, the distributed resource management node including a distributed resource management interface and a grid scheduler, the grid scheduler configured to receive an end user request and output an admission control decision; [0056]; [0009]; [0043]*

*a contract generation engine coupled to the distributed resource management node, the contract generation engine configured to determine resource requirements for an interactive session with the end user, and generate a contract specifying resource allocations and authorizations, wherein the contract includes a service level agreement with the end user; and [0056]; [0009]; [0043]*

*a contract repository configured to store the service level agreement. [0012]*

13. In regard to claim 16, Clarke disclosed:

*a user directory which includes for the end user a list of applications which the end user is authorized to use.* available web services are discussed in [0044]. Policies preventing certain programs from being run on certain computers are discussed in [0009]. An administrator controlling computer accounts where a user accesses programs is discussed in [0036]. When the administrator controlled computer accounts are discussed in conjunction with a policy which prevents programs from being executed and a list of available web services, it is clear that Clarke implements this in a method where the administrator creates a user account which states what the user may and may not access based on that the user has paid for, when the use of corporate finance data and accounts for specific customers which is used as part of application prioritization statements for customers as in [0041].

14. In regard to claim 17, Clarke disclosed:

*an application profiles repository, for providing the resource requirements information for individual applications. [0039]*

15. In regard to claim 18, Clarke disclosed:

*a user class authorization policy for providing resource allocation policies for different user classes. [0041] and [0036] discuss control of customer computer accounts and access and prioritization of applications based on those accounts.*

### **Conclusion**

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16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
17. Zhu et al. US 7,310,673
18. Karnik et al. US 7,305,431
19. Mangipudi et al. US 7,058,704
20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Swearingen whose telephone number is (571)272-3921. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Donaghue can be reached on 571-272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jeffrey R. Swearingen  
Examiner  
Art Unit 2445

/J. R. S./  
Examiner, Art Unit 2445

/Larry D Donaghue/  
Primary Examiner, Art Unit 2454